

CITY OF LOCKPORT
CORPORATION PROCEEDINGS

Lockport Municipal Building

Regular Meeting Official Record

December 18, 2013
6:00 P.M.

Mayor Michael W. Tucker called the meeting to order.

ROLL CALL

The following Common Council members answered the roll call:

Aldermen Kibler, Lombardi, McCaffrey, Fogle, Schrader, and Genewick.

RECESS

Recess for public input.

121813.1

On motion of Alderman McCaffrey, seconded by Alderman Lombardi, the minutes of the Regular Meeting of December 4, 2013 are hereby approved as printed in the Journal of Proceedings. Ayes 6. Carried.

FROM THE MAYOR

Appointments:

12/13/13 Charlene Seekins-Smith, 77 Coolidge Avenue, Lockport, NY – re-appointed as a member of the Planning and Zoning Board. Said term expires October 14, 2016.
Received and filed.

12/13/13 Craig Hugill, 23 Utica Street, Lockport, NY – re-appointed as a member of the Planning and Zoning Board. Said term expires October 14, 2016.
Received and filed.

12/13/13 Nancy Babis, 138 Grant Street, Lockport, NY – re-appointed as a member of the Zoning Board of Appeals. Said term expires November 15, 2016.
Received and filed.

12/13/13 Robin McCowen, 55 Waterman Street, Lockport, NY – re-appointed as a member of the Zoning Board of Appeals. Said term expires November 15, 2016.
Received and filed.

12/13/13 Thomas E. Hull, 313 Willow Street, Lockport, NY – re-appointed as a member of the Zoning Board of Appeals. Said term expires November 15, 2016.
Received and filed.

12/13/13 Norman Allen, Director of Engineering and Public Works – appointed to the Americans with Disabilities Act Committee.
Received and filed.

12/13/13 Richelle Pasceri, City Clerk – appointed to the Americans with Disabilities Act Committee.
Received and filed.

FROM THE CITY CLERK

The Clerk submitted payrolls, bills for services and expenses, and reported that the Department Heads submitted reports of labor performed in their departments.
Referred to the Finance Committee.

Communications (which have been referred to the appropriate City officials)

12/9/13 Richelle J. Pasceri, City Clerk – notification that bid proposals to Replace Inlet Gates at Waste Water Treatment Plant were received on December 6, 2013 as follows:

| | |
|---|--------------|
| STC Construction Inc. Springville, NY | \$196,000.00 |
| Hohl Industrial Services, Inc. Tonawanda, NY | \$279,900.00 |
| Finger Lakes Industrial Contracting Corp. Seneca Falls, NY | \$227,277.00 |
| Savarino Companies LLC Buffalo, NY | \$197,500.00 |
| Empire Marine Corporation Hilton, NY | \$300,000.00 |

Referred to the Committee of the Whole.

12/17/13 Harry E. Williams, Acting City Assessor – notification that the General City Tax rolls have been completed, corrected and filed.
Referred to the Committee of the Whole

12/17/13 Richelle J. Pasceri, City Clerk – notification that bid proposal for Water Meters were received on December 16, 2013 as follows:

Lock City Supply
650 West Avenue, Lockport, NY

Automated Meter Reading System
Meter and Remote Module

| | |
|------------------|------------------|
| 5/8" Water Meter | 199.34 per meter |
| 3/4" | 237.53 |
| 1" | 319.96 |
| 1 1/2" | 529.67 |
| 2" | 750.05 |

Transmitter (less meter)

| | |
|------------------|------------------------|
| 5/8" Water Meter | 144.25 per transmitter |
| 3/4" | 144.25 |
| 1" | 144.25 |
| 1 1/2" | 150.76 |
| 2" | 150.76 |

Referred to the Committee of the Whole

12/17/13 Richelle J. Pasceri, City Clerk – notification that the Lockport Municipal Offices will be closed on the following days in December and January for Christmas and New Years:

Tuesday, December 24 (closed at 12 noon)

Wednesday, December 25

Tuesday, December 31 (closed at 12 noon)

Wednesday, January 1, 2014

The garbage collection schedule is as follows:

Due to the Christmas and New Year's holidays, there will be no garbage collection on Wednesday, December 25th & Wednesday, January 1st.

Garbage scheduled for collection on December 25th through December 27th and January 1st through January 3rd will be collected on the day following regularly scheduled collection

Bulk items will be collected the week of January 6th

Referred to the Media

Notice of Defect:

12/4/13 271 West Caledonia Street, Lockport, NY – tree

12/10/13 226 Caledonia Street, Lockport, NY – tree

Referred to the Director of Engineering.

Notice of Claim:

12/10/13 Thomas H. Brandt, Attorney for David Ulrich, 468 Locust Street, Lockport, NY

Referred to the Corporation Counsel.

MOTIONS & RESOLUTIONS

121813.2

By Alderman Genewick:

Resolved, that the Mayor and City Clerk be authorized to issue orders in favor of the claimants for payrolls, bills, and services to be paid on December 20, 2013.

Seconded by Alderman Kibler and adopted. Ayes 6.

121813.3

By Alderman Genewick:

Resolved, that claims authorized for payment by the Director of Planning and Development, and subsequently paid from the Community Development Escrow Account, be and the same are hereby approved.

Seconded by Alderman Lombardi and adopted. Ayes 6.

121813.4

By Alderman McCaffrey:

Whereas, the City of Lockport is establishing a Fallen Heroes Memorial Garden at Outwater Park, and

Whereas, the Common Council wishes to recognize and honor deceased community members who have lost their lives in the line of duty, *Now therefore be it*

Resolved, that the Common Council shall adopt the following criteria for inclusion at the Memorial Garden:

The deceased must meet the residency criteria unless the deceased honoree was a member of Lockport's Public Safety units. Tribute to the deceased requires the support from the family of the deceased.

Residency:

a. The deceased honoree must have been born and/or died in either the City of Lockport or the Town of Lockport.

b. The deceased had an established legal residency within the City of Lockport or the Town Of Lockport before his/her death.

Sacrifice:

1. Lost life in the line of duty as a member of any branch of the military or public safety department; or
2. Served Lockport as a member of Lockport's Public Safety (even if he/she does not meet residency requirement) and lost his/her life in the line of duty.
3. Lost life as a result of a heroic act.

Eligibility:

1. Police officers killed in the line of duty (any department).
2. Firefighters killed in the line of duty (any department).
3. County Sheriff department officers killed in the line of duty (any county).
4. Public Safety officers killed in the line of duty.
5. Members of the National Guard or Reserves killed in the line of duty.
6. City or Town of Lockport resident died as a result of performing a heroic act.

Applications can be mailed to:

Lockport Municipal Building
c/o Fallen Heroes Memorial Committee
One Locks Plaza
Lockport, NY 14094

Seconded By Alderman Fogle and adopted. Ayes 6.

121813.5

By Alderman McCaffrey:

Resolved, that the proposal of New York Municipal Insurance Reciprocal, 150 State Street, Suite 203, Albany, New York, received on December 9, 2013, for General Liability Insurance be accepted, and be it further

Resolved, that the Mayor, subject to Corporation Counsel approval be and the same is hereby authorized and directed to enter into contract for same.

Seconded by Alderman Genewick and adopted. Ayes 6.

121813.6

By Alderman McCaffrey:

Whereas, the Financial Restructuring Board for Local Governments is available to offer assistance to eligible municipalities and to make recommendations to improve fiscal stability, management, and the delivery of public services. In addition, the Board can offer grants and loans and serves as an arbitration panel for binding arbitration, and

Whereas, the Common Council is desirous of the City to make such application, now therefore be it

Resolved, that the Mayor, subject to Corporation Counsel, is hereby authorized and directed to submit an application to the Financial Restructuring Board for Local Governments.

Seconded by Alderman Schrader and adopted. Ayes 6.

121813.7 WITHDRAWN (Reinstate Sr. Acct Clerk & Laborer positions)

121813.8

By Alderman Schrader:

Whereas, the City of Lockport desires to replace five defective inlet gates and create a bar screen bypass by installing an additional new weir gate at the Wastewater Treatment Plant, and

Whereas, the Director of Engineering / Public Works has created plans and specifications to complete said work, and

Whereas, bids were received on December 6, 2013 at a public bid opening, and

Whereas, the Director of Engineering / Public Works has reviewed the lowest bid and interviewed the bidder and determined that STC Construction is the lowest responsible bidder and recommends award of a Contract for said work, now it therefore be

Resolved, that the Mayor subject to Corporation Counsel approval be and the same is hereby authorized and directed to enter into a Contract with STC Construction, Inc., PO Box 459, Springville, NY 14141-0459 for said work in the amount of \$196,000 plus a contingency amount of \$39,200.00 to be charged to Account # 004.0004.0520.4151.

Seconded by Alderman McCaffrey and adopted. Ayes 6.

121813.9

By Alderman Genewick:

Resolved, that the City Treasurer be and the same is hereby authorized and directed to transfer funds from under expended appropriations accounts to over expended accounts in the 2013 General, Water, Sewer, and Refuse Fund budgets and to appropriate fund balance to the extent necessary to balance the budgets, and furthermore, report to the Common Council on those accounts having had transfers.

Seconded by Alderman Schrader and adopted. Ayes 6.

121813.10

By Alderman Genewick;

Resolved, that the City Treasurer is hereby authorized and directed to transfer any balances remaining in 2013 budgetary accounts 001-9000-8001, 002-9000-8001, and 003-9000-8001 (workers compensation) to their respective General, Water, and Sewer "Worker Compensation Reserve Fund" accounts.

Seconded by Alderman McCaffrey and adopted. Ayes 6.

121813.11

By Alderman Genewick:

Resolved, that pursuant to the recommendation of the Board of Estimate & Apportionment the Manufacturers & Traders Trust Company, J. P. Morgan Chase & Co. Bank, Key Bank, First Niagara Commercial Bank and Citizens Bank be designated as depositories of City funds for fiscal year 2014, provided said banks comply with the terms and conditions as set forth in the City of Lockport's Investment Policy.

Seconded by Alderman Fogle and adopted. Ayes 6.

121813.12

By Alderman Genewick:

Resolved, that the City tax roll for year 2014 be and the same is hereby confirmed and the City Clerk is hereby authorized and directed to certify thereto and deliver said tax rolls to the City Treasurer for collection.

Seconded by Alderman Lombardi and adopted. Ayes 6.

By Alderman Kibler:

Resolved, that the reading of the foregoing resolution be and the same is hereby waived.

Seconded by Alderman McCaffrey and adopted. Ayes 6.

121813.13

The following ordinance was offered by Councilmember Genewick, who moved its adoption, seconded by Councilmember McCaffrey, to wit:

BOND ORDINANCE DATED DECEMBER 18, 2013.

AN ORDINANCE AUTHORIZING THE ISSUANCE OF \$650,000 BONDS OF THE CITY OF LOCKPORT, NIAGARA COUNTY, NEW YORK, TO PAY COST OF THE DEMOLITION OF A CITY-OWNED BUILDING, IN AND FOR SAID CITY.

WHEREAS, the capital project hereinafter described has been determined to be a Type II Action pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act, the implementation of which as proposed, such regulations provide, will not result in a significant environmental effect; NOW, THEREFORE,

BE IT ORDAINED, by the affirmative vote of not less than two-thirds of the total voting strength of the Common Council of the City of Lockport, Niagara County, New York, as follows:

Section 1. The demolition of the City-owned building located at 71 Gooding Street, in and for the City of Lockport, Niagara County, New York, including incidental expenses in connection therewith, is hereby authorized at a maximum estimated cost of \$650,000, said building being no longer of any use or value or having become dangerous or detrimental to human life, health or safety.

Section 2. It is hereby determined that the plan for the financing of said specific object or purpose is by the issuance of \$650,000 bonds of said City hereby authorized to be issued therefor pursuant to the provisions of the Local Finance Law.

Section 3. It is hereby further determined that the period of probable usefulness of the aforesaid specific object or purpose is ten years, pursuant to subdivision 12-a of paragraph (a) of Section 11.00 of the Local Finance Law.

Section 4. The faith and credit of said City of Lockport, Niagara County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such obligations as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year. There shall annually be levied on all the taxable real property of said City, a tax sufficient to pay the principal of and interest on such obligations as the same become due and payable.

Section 5. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated to the City Treasurer, the chief fiscal officer of said City. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said City Treasurer, consistent with the provisions of the Local Finance Law.

Section 6. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the City Treasurer, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as he shall deem best for the interests of said City, provided, however, that in the exercise of these delegated powers, he shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the City Treasurer shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 7. All other matters, except as provided herein relating to such bonds herein authorized including date, denominations, maturities, interest payment dates, and whether said bonds shall be repaid in accordance with a schedule providing for substantially level or declining annual debt service, within the limitations prescribed herein and the manner of execution of the same and also including the consolidation with other issues, shall be determined by the City Treasurer, the chief fiscal officer of such City. Such bonds shall contain substantially the recital of validity clause provided for in section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by section 52.00 of the Local Finance Law, as the City Treasurer shall determine consistent with the provisions of the Local Finance Law.

Section 8. This ordinance shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this ordinance, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 9. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said City is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this bond ordinance are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 10. This ordinance, which takes effect immediately upon the adoption thereof, shall be published in summary form in the official newspaper of said City, together with a notice of the City Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

The question of the adoption of the foregoing ordinance was duly put to a vote on roll call, which resulted as follows:

| | | |
|--------------------|--------|-----|
| Alderman Fogle | VOTING | YES |
| Alderman Genewick | VOTING | YES |
| Alderman Kibler | VOTING | YES |
| Alderman Lombardi | VOTING | YES |
| Alderman McCaffrey | VOTING | YES |
| Alderman Schrader | VOTING | YES |

The ordinance was thereupon declared duly adopted.

121813.14

By Alderman Schrader:

Resolved, that the bid proposal of Lock City Supply Inc., Lockport, NY, received on December 16, 2013 for water meters, being the only bid received, be accepted in the amount as reported in a communication from the City Clerk – report of bid proposals. Cost of same to be charged to account #002 8340 0270 Water Meters.

Seconded by Alderman Kibler and adopted. Ayes 6.

121813.15

By Alderman Kibler:

Resolved, that the Mayor, subject to Corporation Counsel approval be and the same is hereby authorized and directed to renew the contract with Lockport City School District for continuation of a School Resource Officer.

Seconded by Alderman Lombardi and adopted. Ayes 6.

121813.15A

By Alderman Genewick:

Resolved, that the City Treasurer be and the same is hereby authorized and directed to transfer \$900.00 from account #001-1900-1990 to account #001-8989-100 for Code Enforcement Officer.

Seconded by Alderman Kibler and adopted. Ayes 6.

121813.15B

By Alderman Lombardi:

Resolved, that the Mayor, subject to Corporation Counsel approval, is hereby authorized to execute the 2014 agreement between the City of Lockport and Niagara Community Action Program, Inc. at a cost not to exceed \$2,500.00. Cost of same to be charged to account #001-8697-0435.

Seconded by Alderman Fogle and adopted. Ayes 6.

121813.15C

By Alderman Kibler:

Resolved, that Deputy Corporation Counsel Blackley be and the same is hereby authorized and directed to prepare a New Working agreement and incorporate therein the terms and conditions provided for in the Memorandum of Agreement, and upon approval thereof by the Hickory Club, P.B.A., and signed by the President, the Mayor is authorized and requested to sign same, after which the terms and conditions thereof be effected January 1, 2013, for a period of 6 years ending December 31, 2018.

Seconded by Alderman Schrader and adopted. Ayes 6.

121813.15D

By Alderman Lombardi:

Resolved that the Municipal Building parking lot be closed beginning at noon on Tuesday, December 31, 2013 for Rock n' the Locks New Year's Eve celebration, and be it further

Resolved, that the Director of Engineering is hereby authorized and directed to arrange for delivery of the stage, barricades and waste receptacles to the area prior to the event.

Seconded by Alderman Genewick and adopted. Ayes 6.

121813.15E

By Alderman McCaffrey:

RESOLUTION AUTHORIZING SETTLEMENT OF LITIGATION

WHEREAS, Ferguson commenced litigation against Man O Trees alleging causes of action for breach of contract, unjust enrichment, and account stated for certain amounts alleged to be due and owing, plus interest, attorney's fees and court costs, and Man O Trees asserted defenses to the Primary Action, and

WHEREAS, Man O Trees commenced a third-party actions against the City of Lockport alleging a cause of action for contribution against the City, and the City asserted counterclaims against Man O Trees for breach of contract and negligence, and

WHEREAS, the City owed Ferguson electric the balance of a retention held by the City from the former Main Street Project, and

WHEREAS, the Parties collectively desire to settle and finally resolve the above litigation in the following manner:

1. The City shall pay Man O Trees the sum of \$15,000 on or before December 31, 2013, and
2. Man O Trees shall pay Ferguson the sum of \$25,000.

NOW THEREFORE BE IT

RESOLVED, that the Mayor be and is hereby authorized to sign the Settlement Agreement for the above actions, and be it further

RESOLVED, that the sum of \$15,000 shall be paid from account #001.1900.1990 on or before December 31, 2013.

Seconded By Alderman Lombardi and adopted. Ayes 6.

121813.16

ADJOURNMENT

At 6:20 P.M. Alderman McCaffrey moved the Common Council be adjourned until **7:00 P.M., Monday, January 6, 2014.**

Seconded by Alderman Fogle and adopted. Ayes 6.

RICHELLE J. PASCERI
City Clerk